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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,858	12/14/2000	Jackson B. Hester JR.	6295.N CN1	8319

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Lucy X. Yang  
Pharmacia & Upjohn Company  
Global Intellectual Property  
301 Henrietta Street  
Kalamazoo, MI 49001

EXAMINER

COLEMAN, BRENDA LIBBY

ART UNIT

PAPER NUMBER

1624

13

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/736,858	HESTER ET AL.
Examiner	Art Unit	
Brenda L. Coleman	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 24 March 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-14, 16, 17, 22-25, 30-36 and 38-66 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14, 16, 17, 22, 30-36, 38, 42, 47-56, 61 and 66 is/are rejected.
- 7) Claim(s) 23-25, 39-41, 43-46, 57-60 and 62-65 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Claims 1-14, 16, 17, 22-25, 30-36 and 38-66 are pending in the application.

This action is in response to applicant's amendment dated March 24, 2003.

Claims 1, 9, 16, 47, 54 and 65 have been amended.

1. The amendments to claims 2 and 52 in the amendment filed July 30, 2002 have been entered see 37 CFR § 1.121. However, the applicants' are reminded of the manner of making amendments.

### **37 CFR 1.121. Manner of making amendments in application.**

(c) Claims. —

(1) Amendment by rewriting, directions to cancel or add. Amendments to a claim must be made by rewriting such claim with all changes (e.g., additions, deletions, modifications) included. The rewriting of a claim (with the same number) will be construed as directing the cancellation of the previous version of that claim. A claim may also be canceled by an instruction.

(i) A rewritten or newly added claim must be in clean form, that is, without markings to indicate the changes that have been made. A parenthetical expression should follow the claim number indicating the status of the claim as amended or newly added (e.g., "amended," "twice amended," or "new").

(ii) If a claim is amended by rewriting such claim with the same number, **the amendment must be accompanied by another version of the rewritten claim, on one or more pages separate from the amendment, marked up to show all the changes relative to the previous version of that claim.** A parenthetical expression should follow the claim number indicating the status of the claim, e.g., "amended," "twice amended," etc. **The parenthetical expression "amended," "twice amended," etc. should be the same for both the clean version of the claim under paragraph (c)(1)(i) of this section and the marked up version under this paragraph.** The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system. A marked up version does not have to be supplied for an added claim or a canceled claim, as it is sufficient to state that a particular claim has been added, or canceled.

(2) A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number.

(3) A clean version of the entire set of pending claims may be submitted in a single amendment paper. Such a submission shall be construed as directing the cancellation of all previous versions of any pending claims. A marked up version is required only for claims being changed by the current amendment (see paragraph (c)(1)(ii) of this section). Any claim not accompanied by a marked up version will constitute an assertion that it has not been changed relative to the immediate prior version.

### ***Response to Arguments***

Applicants' arguments filed March 24, 2003 have been fully considered with the following effect:

2. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled q) maintained in the last office action, which is hereby **withdrawn**.
  
3. With regards to the 35 U.S.C. § 112, first paragraph rejection of claims 1-14, 16, 17, 22, 30-36, 38, 42, 47-56, 61 and 66, the applicant's amendments and remarks have been fully considered but they are not persuasive. The applicants' stated that the "application contained a specific disclosure of CH<sub>3</sub> and CF<sub>3</sub> as possible substituents for phenyl groups". The applicants' point to page 6, lines 8 and 9 for support, however, the CH<sub>3</sub> and CF<sub>3</sub> substitution of phenyl is limited to R<sub>5</sub> not R<sub>6</sub> and hence, represents new matter with respect to the definition of R<sub>6</sub>.

Claims 1-14, 16, 17, 22, 30-36, 38, 42, 47-56, 61 and 66 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the

specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For reasons of record and stated above.

4. The applicant's amendments and arguments are sufficient to overcome the 35 U.S.C. § 112, second paragraph rejections labeled a), b), c), d), e), f), g), h) and i) of the last office action, which are hereby **withdrawn**. However, with regards to the 35 U.S.C. § 112, second paragraph rejection labeled j), the applicant's amendments and remarks have been fully considered but they are not persuasive.

j) The applicants' stated that the "reference to formula I in claim 66 includes correct antecedent basis since the claim references a compound of formula I as shown in claim 47". However, the compounds of claim 47 are of formula II not formula I.

Claim 66 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For reasons of record and stated above.

In view of the amendment dated March 24, 2003, the following new grounds of objection apply:

***Claim Objections***

5. Claim 9 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must be stated in the alternative. See MPEP § 608.01(n).

6. Claims 23-25, 39-41, 43-46, 57-60 and 62-65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 703-305-1880. The examiner can normally be reached on 8:30-5:00 Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on 703-308-4716. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

*Brenda Coleman*

Brenda Coleman  
Primary Examiner  
Art Unit 1624  
May 29, 2003